

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JOHN B. ROBBINS, JUDGE

DIVISION III

CACR 05-923

JANUARY 17, 2007

JUSTIN LEE MCDONALD  
APPELLANT

APPEAL FROM THE CRAWFORD  
COUNTY CIRCUIT COURT  
[NO. CR2004-1461]

V.

HONORABLE GARY RAY COTTRELL,  
JUDGE

STATE OF ARKANSAS  
APPELLEE

REMANDED FOR SUPPLEMENTATION  
OF RECORD AND REBRIEFING

Appellant Justin Lee McDonald was convicted in a jury trial of five counts of delivery of methamphetamine, and was sentenced to twelve years in prison for each conviction. The trial court ordered two of the sentences to run consecutive to each other, but concurrent with the remaining sentences, for a total of twenty-four years in the Arkansas Department of Correction.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(j)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, appellant's counsel has filed a motion to withdraw on the grounds that the appeal is without merit. Appellant's counsel's motion was accompanied by a brief that purports to discuss all matters that might arguably support an appeal, including each adverse ruling, and a statement as to why each point raised

would not be a meritorious ground for reversal. Mr. McDonald was furnished with a copy of his counsel's brief and notified of his right to file a statement of *pro se* points within thirty days, and Mr. McDonald has filed such a statement. Because our review has disclosed that portions of the record have been omitted, we do not reach the merits of the motion to be relieved at this time, but instead direct appellant's counsel to supplement the record.

Appellant's notice of appeal designated "the entire record and all proceedings, exhibits, evidence and testimony, EXCEPT the voir dire of the prospective jurors." (Emphasis in the notice of appeal.) The partial record before us indicates that voir dire was in fact conducted, but was omitted from the record by the court reporter per appellant's designation.<sup>1</sup> We are not able to determine whether there has been compliance with *Anders* unless we are provided with a complete record on appeal. *See Campbell v. State*, 74 Ark. App. 277, 47 S.W.3d 915 (2001).

We note that the motion to withdraw is deficient in other respects as well. Rule 4-3(j)(1) provides that the brief shall contain an argument section listing all adverse rulings and an explanation as to why each adverse ruling is not a meritorious ground for reversal. There were numerous adverse rulings by the trial court, and while appellant's counsel has discussed most of them in his brief, several have been omitted. In particular, we direct

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<sup>1</sup>We note that in an amended notice of appeal, appellant designated the entire record; however, the entire record has not been provided.

appellant's counsel to the adverse rulings on pages 142, 240, 339, 433, and 475 of the transcript.

Consequently, we direct appellant's counsel to supplement the record on appeal to include the portions of the record originally omitted, and to file a substituted brief that contains an abstract and discussion of all of the objections decided adversely to appellant contained in the record, including any adverse rulings that may be contained in those parts of the record that are not yet before us.

Supplementation of record and rebriefing ordered.

PITTMAN, C.J., and GLADWIN, J., agree.